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Paper No. 11

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OFFICE OF PETITIONS

In re Application of :  
Thomas A. Cain et al6 :  
Application No. 09/645,970 : ON PETITION  
Filed: August 24, 2000 :  
Attorney Docket No. 5019.7 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 18, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on October 20, 2003 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 11, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 19, 2003.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Pursuant to petitioner's authorization, Deposit Account No. 13-4900 was charged a total of \$1,147.00 -- \$665.00 for the petition to revive an unintentionally abandoned application, \$385.00 for the RCE, \$43.00 for one independent claim, and \$54.00 for six additional claims.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded to Technology Center AU 2686 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

*Wan Laymon*  
Wan Laymon

Petitions/Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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